

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA**

RONALD ARRINGTON, RUBY ARRINGTON,
CURTIS BARNES, JOHN BATTLE, CAROLYN BATTIS,
JACQUELINE BOBBITT, PAULA PRISCILLA BRYAN,
DENNIS CHERRY, DOROTHY DAVIS, LINDA DURHAM,
BRYANT EVANS, DEBORAH GAINES, JANNIE
HARDEN, RITA HARRIS, GLADYS LEWIS,
HAZEL LUCAS, WALLACE LUCAS,
HARRISON LYNCH, MACARTHUR MITCHELL,
ZOE MITCHELL, JAMES MORRIS, JOHNNIE PARKER,
BURNETTA PITTMAN, GEORGIE RICHARDSON,
JOYCE ROBINSON HOUSTON, KATIE ROBINSON,
BLAINE SANDERS, GERALDINE STEVENSON,
GERALDINE WHITAKER, and JESSE WILLIAMS,

Plaintiffs,

vs.

PUTNAM FIDUCIARY TRUST COMPANY, ABBOTT
LABORATORIES, INC., JOSEPH LIONEL JONES,
and BAB PRODUCTIONS, INC.

Defendants.

No. 5:07-CV-00386

COMPLAINT

Plaintiffs, by their attorneys, bring this complaint against Defendants and state as follows:

Introduction

1. Plaintiffs are retirees who were long term production workers at the Abbott Laboratories manufacturing facility in Rocky Mount, North Carolina. They were participants in the Abbott Stock Retirement Plan in which they held company stock. Putnam Fiduciary Trust Company was the Plan Trustee and Custodian and maintained qualified retirement accounts for each of the Plaintiffs. Abbott Laboratories created the Stock Retirement Plan and was the Plan

sponsor.

2. Both Putnam Fiduciary Trust Company and Abbott Laboratories owed fiduciary duties to Plaintiffs. Collectively, Plaintiffs held Abbott stock that was sold for \$4,287,066 and then turned over to a Ponzi scheme artist based on his plainly insufficient Rollover Instructions to Putnam Fiduciary Trust Company.

3. Abbott allowed an individual named Joe Jones, who held himself out as an investment advisor, to regularly attend retirement parties at the Abbott Rocky Mount facility. This plant was not open to the public and Jones was the only purported financial advisor that regularly attended retirement parties where he solicited Abbott employees to trust him with their retirement funds. One phone call by Abbott to the Secretary of State would have revealed that Jones was not licensed as a registered representative of any securities firm after 2002. All of the events at issue here occurred when he was not licensed in 2003 and 2004.

4. Jones turned out to be a Ponzi scheme artist who sold Plaintiffs worthless pieces of paper in a rock concert production company called BAB Productions. Jones lost his status as a registered representative of any securities firm on December 31, 2002. Yet, he continued to sell unregistered securities which were fraudulent promissory notes issued by BAB through September 2002, when the State of North Carolina shut down the scheme.

5. At the time these Plaintiffs turned over to him their Abbott retirement funds, Jones was becoming more brazen in his conduct. Instead of having Plaintiffs send money to a legitimate securities firms as he did in the beginning and then turning that money over to BAB, Jones was having victims liquidate their entire retirement accounts at Putnam and having Putnam send all the money directly to BAB. Putnam did this without question based on Rollover

Request Forms that Jones completed and which were fraudulent on their face. Had Putnam Fiduciary Trust Company bothered to read these the Forms, the scheme would have come to a halt.

6. North Carolina prosecutors charged Jones with stealing \$8.6 million from retirees and he pled guilty to forty-one counts of North Carolina securities law violations and five counts of obtaining money by false pretenses. In April 2007, Jones was sentenced to between twenty and twenty-six years in prison. North Carolina Secretary of State Elaine Marshall was quoted as saying, “Joe Jones is one of the worst financial crooks in North Carolina history....” (wral.com news dated April 4, 2007). Exh. A.

7. Plaintiffs had their retirement funds held at Putnam Fiduciary Trust Company. Plaintiffs were not sophisticated individuals and had no prior investment experience before owning Abbott stock. Plaintiffs were relying upon Putnam as the Plan Trustee and Abbott as the Plan Sponsor to meet their fiduciary duties in safeguarding their investments. Putnam holds itself out as having “a time honored tradition in money management since 1937, [that] our values have been rooted in a profound sense of responsibility for the money entrusted to us.” It has “a commitment to doing what’s right for investors ... [with] stringent investor protections”. (Putnam fiduciary planning brochure). Exh. B.

8. In fact, Putnam publishes a guide to fiduciary risk management for sponsors of participant directed defined contribution plans. It writes, “at Putnam, we believe that plan sponsors should make an active commitment to their role as plan fiduciary”. (Putnam Fiduciary Planning Guide, Introduction). Exh. C.

9. Plaintiffs were told by Joseph Jones that they should rollover their savings plan

distributions to him even though he was not running any qualified plan. Jones took it upon himself to fill out Rollover Request Forms to Putnam Fiduciary Trust Company whereby plan distributions were to be made. He had Plaintiffs sign forms after he filled them out. Plaintiffs had no experience in financial matters and believed that these forms were legitimate. Putnam, however, as an expert in fiduciary matters could have determined from the face of the forms that there was something amiss. It should have made some minimal effort to see that the retirement funds were being rolled over to a legitimate financial institution and qualified plan but it failed to do so.

10. Jones filled in the Rollover Request forms in a way that raised so many red flags that Putnam should have performed some due diligence or inquiry as to where it was sending retirement money. Attached hereto as Exhibit D is a sample Rollover Request that Jones did for Dennis Cherry which was honored by Putnam. The IRA Name is identified as "Closed-End Unit Investment Trust". This statement alone was a tip off to Putnam that something was wrong. The name on an IRA account has the name of the person who is the beneficiary of the account: "Dennis Cherry IRA Account". "Closed End Unit Investment Trust" is clearly not the name of a legitimate individual retirement account.

11. The second red flag that Putnam ignored was the name of the "financial institution" that was identified as the Trustee for the non-existent IRA. The financial institution line states: "BAB Inc. Send Fed Ex Acct #2455-8445-8". Financial institutions have names like Trust Company, Bank, Fiduciary or other similar designations. From the face of the Rollover Request Form, Putnam should have questioned whether BAB Inc. was a financial institution and whether "Closed End Unit Investment Trust" was any type of IRA. An IRA name that makes no

reference to the name of any living person is suspect.

12. The next red flag that Putnam ignored on the Rollover Request Form is that there is absolutely no reference as to whose benefit the money was to be credited at BAB Inc. The request is analogous to a wire transfer instruction that directs that money be wired to a bank without specifying for whose benefit the money should be credited at the recipient bank. The absence of any account number at BAB Inc. or valid IRA name should have caused Putnam to question what it was being asked to do.

13. All Putnam had to do was make one phone call or one google search to learn that BAB Inc. was a rock concert production company in the entertainment business and obviously not a financial institution or trustee. Instead of making this simple inquiry when confronted by the red flags in the Rollover Request form, Putnam handed over millions of dollars in retirement money directly to BAB, a rock concert production company, which was fronting for a Ponzi scheme. As a result, Plaintiffs have lost their retirement money. While Joseph Jones will be spending twenty years in jail, this fact does not return any monies to Plaintiffs.

Parties

14. Ronald Arrington is an individual living at 1700 Leggett Road, Rocky Mount, NC 27801. Putnam Fiduciary Trust Company sent his retirement savings of \$196,350 to BAB Inc. based on a form filled out by Joe Jones showing that the name of the IRA Account was "Closed-End Unit Investment Trust".

15. Ruby Arrington is an individual living at 3421 Greenfield Drive, Rocky Mount, NC 27804. Putnam Fiduciary Trust Company sent her retirement monies of \$78,189 to BAB Inc.

based on a form filled out by Joe Jones showing that the name of the IRA Account was “Closed-End Unit Investment Trust”.

16. Curtis Barnes is an individual whose mailing address is PO Box 2491, Rocky Mount, NC 27802. Putnam Fiduciary Trust Company transferred his retirement savings of \$406,467 to BAB Inc. based on a form filled out by Joe Jones showing that the name of the IRA Account was “Closed-End Unit Investment Trust”.

17. John Battle is an individual living at 201 East Lucille Street, Nashville, NC 27808. Putnam Fiduciary Trust Company sent his retirement savings of \$57,723 to BAB Inc. based on a form filled out by Joe Jones showing that the name of the IRA Account was “Closed-End Unit Investment Trust”.

18. Carolyn Batts is an individual living at 301 North Kirkwood Avenue, Rocky Mount, NC 27801. Putnam Fiduciary Trust Company sent her retirement savings of \$61,566 to BAB Inc. based on a form filled out by Joe Jones showing that the name of the IRA Account was “Closed-End Unit Investment Trust”.

19. Jacqueline Bobbitt is an individual living at 33 Live Oak Trail, Rocky Mount, NC 27804. Putnam Fiduciary Trust Company sent her retirement savings of \$50,813 to BAB Inc. based on a form filled out by Joe Jones showing that the name of the IRA Account was “Closed-End Unit Investment Trust”.

20. Paula P. Bryn is an individual whose address is PO Box 383, Whitakers, NC 27891. Putnam Fiduciary Trust Company sent her retirement savings of \$78,699 to BAB Inc. based on a form filled out by Joe Jones showing that the name of the IRA Account was “Closed-End Unit Investment Trust”.

21. Dennis Cherry is an individual living at 1840 Springfield Road, Rocky Mount, NC 27801. Putnam Fiduciary Trust Company sent his retirement savings of \$137,098 to BAB Inc. based on a form filled out by Joe Jones showing that the name of the IRA Account was "Closed-End Unit Investment Trust".

22. Dorothy Davis is an individual living at 231 South Tillery Street, Rocky Mount, NC 27804. Putnam sent her retirement savings of \$33,626.24 to BAB Inc.

23. Linda A. Durham is an individual living at 5685 Wayman Church Road, Enfield, NC 27823. Putnam Fiduciary Trust Company sent her retirement savings of \$124,580 to BAB Inc. based on a form filled out by Joe Jones showing that the name of the IRA Account was "Closed-End Unit Investment Trust".

24. Bryant Evans is an individual living at 3459 Cornell Drive, Rocky Mount, NC 27803. Putnam Fiduciary Trust Company sent his retirement savings of \$190,955 to BAB Inc. based on a form filled out by Joe Jones showing that the name of the IRA Account was "Closed-End Unit Investment Trust".

25. Deborah Gaines is an individual living at 2131 Leggett Road , Rocky Mount, NC 27801. Putnam Fiduciary Trust Company sent her retirement savings of \$307,779 to BAB Inc. based on a form filled out by Joe Jones showing that the name of the IRA Account was "Closed-End Unit Investment Trust".

25a. Jannie Harden lives at 1501 Hargrove Street, Rocky Mount, NC 27801. She had \$41,568.56 sent to BAB by Putnam on April 16, 2004.

26. Rita Harris is an individual living at 962 Mills Road, Hollister, NC 27844. Putnam Fiduciary Trust Company sent her retirement savings of \$315,757 to BAB Inc. based on a form

filled out by Joe Jones showing that the name of the IRA Account was “Closed-End Unit Investment Trust”.

27. Gladys Lewis is an individual living at 5927 Harristown Road, Rocky Mount, NC 27804. Putnam Fiduciary Trust Company sent her retirement savings of \$222,389 to BAB Inc. based on a form filled out by Joe Jones showing that the name of the IRA Account was “Closed-End Unit Investment Trust”.

28. Hazel Lucas is an individual living at 209 St. Christopher’s Walk, Rocky Mount, NC 27804. Putnam Fiduciary Trust Company sent her retirement savings of \$99,822 to BAB Inc. based on a form filled out by Joe Jones showing that the name of the IRA Account was “Closed-End Unit Investment Trust”.

29. Wallace Lucas is an individual living at 1824 Old Wilson Road, Rocky Mount, NC 27801. Putnam Fiduciary Trust Company sent his retirement savings of \$243,113 to BAB Inc. based on a form filled out by Joe Jones showing that the name of the IRA Account was “Closed-End Unit Investment Trust”.

30. Harrison Lynch is an individual whose address is P.O. Box 175, Hollister, NC 27844. Putnam Fiduciary Trust Company sent his retirement savings of \$172,567 to BAB Inc. based on a form filled out by Joe Jones showing that the name of the IRA Account was “Closed-End Unit Investment Trust”.

31. MacArthur Mitchell is an individual living at 1631 U.S. 301, Whitakers, NC 27891. Putnam Fiduciary Trust Company sent his retirement savings of \$301,672 to BAB Inc. based on a form filled out by Joe Jones showing that the name of the IRA Account was “Closed-End Unit Investment Trust”.

32. Zoe Mitchell is an individual living at 1631 U.S. 301, Whitakers, NC 27891.

Putnam Fiduciary Trust Company sent her retirement savings of \$61,230 to BAB Inc. based on a form filled out by Joe Jones showing that the name of the IRA Account was “Closed-End Unit Investment Trust”.

33. James Morris is an individual living at 104 North Kirkwood Avenue, Rocky Mount, NC 27801. Putnam Fiduciary Trust Company sent his retirement savings of \$228,103 to BAB Inc. based on a form filled out by Joe Jones showing that the name of the IRA Account was “Closed-End Unit Investment Trust”.

34. Johnnie C. Parker is an individual living at 3252 Bone Pond Road, Nashville NC, 278856. Putnam Fiduciary Trust Company sent his retirement savings of \$133,639 to BAB Inc. based on a form filled out by Joe Jones showing that the name of the IRA Account was “Closed-End Unit Investment Trust”.

35. Burnetta Pittman is an individual living at 12617 South Street, Whitakers, NC 27891. Putnam Fiduciary Trust Company sent her retirement savings of \$90,792 to BAB Inc. based on a form filled out by Joe Jones showing that the name of the IRA Account was “Closed-End Unit Investment Trust”.

36. Georgie Richardson is an individual living at 104 North Kirkwood Avenue, Rocky Mount, NC 27801. Putnam Fiduciary Trust Company sent her retirement savings of \$127,612 to BAB Inc. based on a form filled out by Joe Jones showing that the name of the IRA Account was “Closed-End Unit Investment Trust”.

37. Joyce Robinson is an individual living at 2500 BP Lane, Rocky Mount, NC 27804. Putnam Fiduciary Trust Company sent her retirement savings of \$41,672 to BAB Inc. based on a

form filled out by Joe Jones showing that the name of the IRA Account was “Closed-End Unit Investment Trust”.

38. Katie Robinson is an individual living at 212 Cofield Street, Enfield, NC 27823. Putnam Fiduciary Trust Company sent her retirement savings of \$42,738 to BAB Inc. based on a form filled out by Joe Jones showing that the name of the IRA Account was “Closed-End Unit Investment Trust”.

39. Blaine Sanders is an individual living at 315 Nash Street, Enfield, NC 27823. Putnam Fiduciary Trust Company sent his retirement savings of 116,703 to BAB Inc. based on a form filled out by Joe Jones showing that the name of the IRA Account was “Closed-End Unit Investment Trust”.

40. Geraldine Stevenson is an individual living at 1421 Treetop Lane, Rocky Mount, NC 27804. Putnam Fiduciary Trust Company sent her retirement savings of \$77,944 to BAB Inc. based on a form filled out by Joe Jones showing that the name of the IRA Account was “Closed-End Unit Investment Trust”.

41. Geraldine Whitaker is an individual living at 13919 Hwy 301, Enfield, NC 27823. Putnam Fiduciary Trust Company sent her retirement savings of \$149,871 to BAB Inc. based on a form filled out by Joe Jones showing that the name of the IRA Account was “Closed-End Unit Investment Trust”.

42. Jesse Williams is an individual whose mailing address is POBox 125, Battleboro, NC 27801. Putnam Fiduciary Trust Company sent his retirement savings of \$137,597 to BAB Inc. based on a form filled out by Joe Jones showing that the name of the IRA Account was “Closed-End Unit Investment Trust”.

43. Putnam Fiduciary Trust Company is the company that was the Trustee for Plaintiffs' accounts. It is a Massachusetts corporation that has its principal place of business in Boston.

44. Abbott Laboratories, Inc. is the sponsor of the qualified Stock Retirement Plan. It had a plant in Rocky Mount, North Carolina. It is a Delaware corporation with a principal place of business at 1000 Abbott Park Road, Abbott Park, IL 60064.

45. Joseph Lionel Jones is the individual who perpetrated the Ponzi scheme. He is currently incarcerated in a state prison in North Carolina.

46. BAB Inc. is a North Carolina company whose last known address is 10724 Carmel Commons Boulevard, Suite 560, Charlotte, NC 28226.

Further Statement of Facts

47. In 2004, the Secretary of State of North Carolina brought an action against Jones and Joe Jones & Associates which resulted in a Final Order to Cease and Desist Order which finds that Jones was offering and selling unregistered securities. The Order further found that Jones was making untrue statements and omitting to state material facts in connection with the sale of securities.

48. The Final Order to Cease and Desist was entered by the State of North Carolina against Jones on November 10, 2004. Prior to said date, Claimants did not know and could not have known of the fraud. Jones was subsequently prosecuted and entered a guilty plea leading to his twenty to twenty-six year prison sentence.

Jurisdiction and Venue

49. This court has subject matter jurisdiction over this action and may exercise jurisdiction over the persons of defendants.

50. Venue is proper in this court.

51. This action is timely filed.

Breach of ERISA

52. Plaintiffs repeat and reallege paragraphs 1 to 51.

53. Putnam and Abbott were fiduciaries under ERISA. Section 3(21)(A), 29 U.S.C.

Section 1002(21)(A) defines a fiduciary to include all persons who exercise authority or control over management of Plan assets and who collects a fee for any investment advice.

54. As ERISA fiduciaries, Putnam's own brochure recognizes that it had to comply with the "Prudent Expert Rule" meaning to act with the care of not just any prudent man, but one familiar with the matters at hand.

55. Putnam breached the Prudent Expert standard by honoring patently false Rollover Requests and transferring out millions in retirement savings to BAB Inc.

56. As Putnam itself also recognizes, "(f)iduciaries are required to do the things a careful, deliberate, knowledgeable, diligent person would do, such as investigating facts, asking questions, consulting experts, considering alternatives, etc.". (Putnam Fiduciary Planning Guide).

57. Putnam and Abbott plainly failed to follow their own advice by blindly allowing millions to be transferred out to a Ponzi scheme artist without asking the most basic of questions or conducting any investigation at all.

58. As a proximate result, Plaintiffs have been injured and sustained substantial losses.

Claims against Jones and BAB

59. Jones and BAB intentionally deceived plaintiffs, making material representations

of untrue facts on which plaintiff relied to their detriment. These defendants committed common law fraud, breached their fiduciary duties owed to plaintiffs, and engaged in constructive fraud. Their actions damaged plaintiffs.

Wherefore, Plaintiffs respectfully pray for entry of judgment in their favor and against Defendants, jointly and severally, awarding compensatory damages of \$4,287,066, including lost profits if their monies had been prudently invested, pre-judgment interest, post-judgment interest, attorneys' fees, punitive damages, and the costs of the action. Plaintiffs demand jury trial to the extent the law provides for it.

Plaintiffs,

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